

## UNITED STATES DISTRICT COURT

for the

District of New Mexico

**FILED**UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

United States of America

v.

Ruben Toledo

Case No.

JUN 21 2017 *g*MATTHEW J. DYKMAN  
CLERK*Defendant(s)*

17mj1567

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 06/20/2017 in the county of Bernalillo in the  
Judicial District of New Mexico, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
36 CFR 4.23 (a)(2)	Operating a motor vehicle under the influence of alcohol (BAC above .08)
36 CFR 4.14	Possession of an open alcoholic beverage in a motor vehicle.
36 CFR 2.35(b)(2)	Unlawful possession of a controlled substance.

This criminal complaint is based on these facts:

\*\*\* SEE ATTACHED AFFIDAVIT \*\*\*

 Continued on the attached sheet.
  
 Complainant's signature

Steven Powers, U.S. Park Ranger

Printed name and title

Sworn to before me and signed in my presence.

Date: 6-21-17
  
 Judge's signature
City and state: Albuquerque NM
  
 Kirtan Khaka U.S. Magistrate Judge  
 Printed name and title

**AFFIDAVIT**

On June 20, 2017, I U.S. Park Ranger Steven Powers, was patrolling the Volcanos day use area within Petroglyph National Monument. I saw a gray ford pickup in the parking lot occupied by two people. It was nearing time to close the gates for the day so I contacted the two people in the pickup. I approached the drivers side of the vehicle, the truck was running. I observed the male sitting in the drivers seat, later identified as Ruben TOLEDO, to have glassy and bloodshot eyes. I could smell the strong odor of marijuana coming from inside the truck. I asked TOLEDO if he was aware of the gate closing time, TOLEDO replied "good this is sacred land". TOLEDO's speech was slurred, and I could smell the odor of an alcoholic beverage on TOLEDO's breath. I observed two open beers sitting on the floorboard of the truck.

I asked TOLEDO to step out of the vehicle and complete the standardized field sobriety tests. Toledo was unstable on his feet, and swayed to the left and right and forward and backwards. TOLEDO admitted to drinking two beers.

The first test I had TOLEDO attempt was the Horizontal Gaze Nystagmus, I noted 6 out of 6 clues during this test. The next test I instructed TOLEDO to complete was the walk and turn. TOLEDO was unable to complete this test. TOLEDO could not balance while standing heel to toe and complained that the position caused him pain. I asked TOLEDO if he would do the test, he declined. The next test I had TOLEDO attempt was the one leg stand. Again, TOLEDO was unstable and nearly fell over. TOLEDO was unable to complete this test. TOLEDO complained of injuries to his knees and ankles. I administered a preliminary breath test to TOLEDO, the result of the test showed a BAC of .270

I placed TOLEDO in custody for suspicion of driving under the influence of alcohol.

I conducted a probable cause search of TOLEDO's vehicle. I discovered several more open and empty beer cans in the back seat. I also discovered a glass marijuana pipe and a small bag of a green leafy substance that filed tested positive for marijuana.

TOLEDO was transported to the Albuquerque Police Department substation where he gave a breath sample on an intoxylizer 8000. The results of the three tests showed TOLEDO's BAC to be .23, .20, and .21.

TOLEDO was booked into the Sandoval county jail without incident.

Not all of the details of this incident are included in this affidavit. This Document only serves to establish probable cause for the charges listed on the cover sheet.



United States Magistrate Judge



U.S. Park Ranger  
Steven Powers